

**CV-13 2590**

**SUMMONS ISSUED**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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AUDREY L. THWEATT  
on behalf of herself and  
all other similarly situated consumers

Plaintiff,

-against-

NELSON, WATSON & ASSOCIATES, LLC

Defendant.

SCANLON, M.J.

FILED  
U.S. DISTRICT COURT E.D.N.Y.  
★ APR 29 2013 ★  
LONG ISLAND OFFICE  
BRODIE, J.

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**CLASS ACTION COMPLAINT**

***Introduction***

1. Plaintiff Audrey L. Thweatt seeks redress for the illegal practices of Nelson, Watson & Associates, LLC concerning the collection of debts, in violation of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA").

***Parties***

2. Plaintiff is a citizen of the State of New York who resides within this District.
3. Plaintiff is a consumer as that term is defined by Section 1692(a)(3) of the FDCPA, in that the alleged debt that Defendant sought to collect from Plaintiff a consumer debt.
4. Upon information and belief, Defendant's principal place of business is located in Haverhill, Massachusetts.
5. Defendant is regularly engaged, for profit, in the collection of debts allegedly owed by consumers.

6. Defendant is a "debt collector" as that term is defined by the FDCPA, 15 U.S.C. § 1692(a)(6).

***Jurisdiction and Venue***

7. This Court has federal question jurisdiction under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331.
8. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b), as the acts and transactions that give rise to this action occurred, in substantial part, in this district.

***Allegations Particular to Audrey L. Thweatt***

9. Upon information and belief, on a date better known by Defendant, Defendant began to attempt to collect an alleged consumer debt from the Plaintiff.
10. On or about March 11, 2013 and April 8, 2013, Defendant sent the Plaintiff collection letters seeking to collect a balance allegedly incurred for personal purposes.
11. Said letters presented the Principal Balance due as \$11,477.37, and the Total Balance due as \$11,477.37
12. The said Principal and Total balances are identical.
13. Said letters are deceptive as, upon information and belief, a substantial amount of the total balance is in fact interest incurred on the account.
14. The actual Principal balance is substantially less than \$11,477.37.
15. Defendant's March 11, 2013 and April 8, 2013 letters are in violation of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) for engaging in deceptive and misleading practices and for mischaracterizing the character of the debt.

**AS AND FOR A FIRST CAUSE OF ACTION**

***Violations of the Fair Debt Collection Practices Act brought by Plaintiff on behalf of herself and the members of a class, as against the Defendant.***

16. Plaintiff re-states, re-alleges, and incorporates herein by reference, paragraphs one (1) through fifteen (15) as if set forth fully in this cause of action.
17. This cause of action is brought on behalf of Plaintiff and the members of a class.
18. The class consists of all persons whom Defendant's records reflect resided in the State of New York and who were sent a collection letter in substantially the same form letters as the letters sent to the Plaintiff on or about March 11, 2013 and April 8, 2013; and (a) the collection letters were sent to a consumer seeking payment of a personal debt purportedly owed to 1<sup>st</sup> Financial Bank; and (b) the collection letters were not returned by the postal service as undelivered; (c) and the Plaintiff asserts that the letters contained violations of 15 U.S.C. §§ 1692e, 1692e(2)(A) and 1692e(10) for engaging in deceptive and misleading practices and for mischaracterizing the amount of the debt.
19. Pursuant to Federal Rule of Civil Procedure 23, a class action is appropriate and preferable in this case because:
  - (A) Based on the fact that form collection letters are at the heart of this litigation, the class is so numerous that joinder of all members is impracticable.
  - (B) There are questions of law and fact common to the class and these questions predominate over any questions affecting only individual class members. The principal question presented by this claim is whether the Defendant violated the FDCPA.

(C) The only individual issue is the identification of the consumers who received such collection letters, (*i.e.* the class members), a matter capable of ministerial determination from the records of Defendant.

(D) The claims of the Plaintiff are typical of those of the class members. All are based on the same facts and legal theories.

(E) The Plaintiff will fairly and adequately represent the class members' interests. The Plaintiff has retained counsel experienced in bringing class actions and collection-abuse claims. The Plaintiff's interests are consistent with those of the members of the class.

20. A class action is superior for the fair and efficient adjudication of the class members' claims. Congress specifically envisions class actions as a principal means of enforcing the FDCPA. 15 U.S.C. § 1692(k). The members of the class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a class action. Prosecution of separate actions by individual members of the classes would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties and would not be in the interest of judicial economy.

21. If the facts are discovered to be appropriate, the Plaintiff will seek to certify a class pursuant to Rule 23(b)(3) of the Federal Rules of Civil Procedure.

22. Collection attempts, such as those made by the Defendant are to be evaluated by the objective standard of the hypothetical "least sophisticated consumer."

*Violations of the Fair Debt Collection Practices Act*

23. The Defendant's actions as set forth above in the within complaint violates the Fair Debt Collection Practices Act.
24. Because the Defendant violated of the Fair Debt Collection Practices Act, the Plaintiff and the members of the class are entitled to damages in accordance with the Fair Debt Collection Practices Act.

WHEREFORE, Plaintiff, respectfully requests that this Court enter judgment in her favor and against the Defendant and award damages as follows:

- (a) Statutory and actual damages provided under the FDCPA, 15 U.S.C. § 1692(k);
- (b) Attorney fees, litigation expenses and costs incurred in bringing this action; and
- (c) Any other relief that this Court deems appropriate and just under the circumstances.

Dated: Cedarhurst, New York  
April 25, 2013



Adam J. Fishbein, P.C. (AF-9508)

Attorney At Law

**Attorney for the Plaintiff**

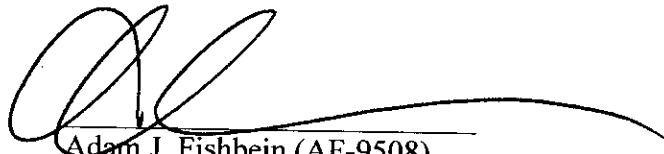
483 Chestnut Street

Cedarhurst, New York 11516

Telephone (516) 791-4400

Facsimile (516) 791-4411

Plaintiff requests trial by jury on all issues so triable.



Adam J. Fishbein (AF-9508)

80 Merrimack Street, Lower Level  
Haverhill, MA 01830  
Phone: (800) 764-1869  
Fax: (978) 469-9046

Office Hours (EST):  
Mon & Wed 8:30AM - 8:00PM  
Tues, Thur & Fri 8:30AM - 5:00PM

March 11, 2013

Audrey L. Thweatt  
161 Jefferson St Apt 3B  
Brooklyn, NY 11206-6377

Reference No: FINB381632

N  
W  
NELSON, WATSON & ASSOCIATES, LLC®

# ACCOUNT SUMMARY

Creditor: 1st Financial Bank  
Original Creditor: 1st Financial Bank  
Account No: XXXXXXXXXXXX5869  
Principal: \$11,477.37  
Total Balance: \$11,477.37

**This communication is from a debt collector. This is an attempt to collect a debt. All information obtained will be used for that purpose.**

Dear Audrey L. Thweatt,

The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested. For your security, please make all payments payable to Nelson, Watson & Associates, LLC.





Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

**Please Note:** When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account as soon as the same day we receive the check and you will not receive your check back from your financial institution.

Sincerely,

LINDSAY TARMY

Consumer Services Department

PAYMENT OPTIONS	
	<b>Payments by Phone</b>
Please call (800) 764-1869 Visa & MasterCard Debit Card & Check-By-Phone	
	<b>Payments by Internet</b>
Please visit <a href="http://www.nelsonwatson.com">www.nelsonwatson.com</a> Simply click "Make a Payment" Visa & MasterCard Check (ACH) also available	
	<b>Payments by Mail</b>
Visa & MasterCard Check or Money Order Please detach lower portion and return with envelope provided.	
	<b>GO GREEN</b>
Prefer to receive notices via Email? Please visit <a href="http://www.nelsonwatson.com">www.nelsonwatson.com</a> Simply click "Go Green"	

New York City Department of Consumer Affairs License Number: 1116152

\*\*\* Detach Lower Portion And Return With Payment \*\*\*

FINB381632 - 2





PO Box 1299

Haverhill, MA 01831

RETURN SERVICE REQUESTED

TO PAY BY CREDIT CARD,  
PLEASE COMPLETE  
THIS SECTION

		
CARD NUMBER	CC-ID#	EXP. DATE
CARD HOLDER NAME (please print)		SIGNATURE

Creditor: 1st Financial Bank

Account No: XXXXXXXXXXXX5869

Total Balance: \$11,477.37 AMOUNT ENCLOSED \$

nwalXXXXXXXXXX5869/2

683003995704

689100000426/000000004



Audrey L. Thweatt  
161 Jefferson St Apt 3B  
Brooklyn, NY 11206-6377



Nelson, Watson & Associates, LLC  
PO Box 1299  
Haverhill, MA 01831-1799

80 Merrimack Street, Lower Level  
Haverhill, MA 01830  
Phone: (800) 830-0287  
Fax: (978) 469-9046

NW  
NELSON, WATSON & ASSOCIATES, LLC®

Office Hours (EST):  
Mon & Wed 8:30AM - 8:00PM  
Tues, Thur & Fri 8:30AM - 5:00PM

Reference Number: FINB381632

PERSONAL AND CONFIDENTIAL

April 8, 2013

Creditor: 1st Financial Bank  
Original Creditor: 1st Financial Bank  
Account No: XXXXXXXXXXXX5869

Principal: \$11,477.37  
Total Balance: \$11,477.37

- ARE YOU RECEIVING A TAX REFUND THIS YEAR?
- USE YOUR TAX REFUND TO YOUR ADVANTAGE
- TAX TIME SPECIAL SETTLEMENT OFFER

Dear Audrey L. Thweatt,

The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested. However, 1st Financial Bank has agreed to accept one single payment in the amount of \$7,460.29 as a settlement on this account. FUNDS MUST BE RECEIVED IN MY OFFICE NO LATER THAN THE CLOSE OF BUSINESS APR 30, 2013. If you are unable to accept this offer, please call our office for alternative payment plans.

We are not obligated to renew this offer. For your security, please make all payments payable to Nelson, Watson & Associates, LLC.

**Please Note:** When you provide a check as payment, you authorize us either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. Funds may be withdrawn from your account as soon as the same day we receive the check and you will not receive your check back from your financial institution.

To speak with a representative, please call our office during normal business hours: Monday and Wednesday 8:30AM to 8:00PM EST or Tuesday, Thursday and Friday 8:30AM to 5:00PM EST.

Sincerely,  
LINDSAY TARMY  
Consumer Services Department

New York City Department of Consumer Affairs License Number: 1116152

This communication is from a debt collector. This is an attempt to collect a debt.  
All information obtained will be used for that purpose.

CUSTOMER SERVICE INFORMATION



Telephone: Toll free:  
(800) 830-0287



Send correspondence to:  
Nelson, Watson & Associates, LLC  
PO Box 1299  
Haverhill, MA 01831-1799



Please visit our website,  
[www.nelsonwatson.com](http://www.nelsonwatson.com), if you prefer to  
make a secure online payment or to sign  
up to receive correspondence by email.

\*\*\* Detach Lower Portion And Return With Payment \*\*\*

FINB381632 - 102



PO Box 1299  
Haverhill, MA 01831  
RETURN SERVICE REQUESTED

TO PAY BY CREDIT CARD,  
PLEASE COMPLETE  
THIS SECTION

<input type="checkbox"/> VISA	<input type="checkbox"/> MasterCard
CARD NUMBER	CC-ID#
CARD HOLDER NAME (please print)	EXP. DATE
SIGNATURE	

Creditor: 1st Financial Bank  
Account No: XXXXXXXXXXXX5869  
Total Balance: \$11,477.37 AMOUNT ENCLOSED \$ \_\_\_\_\_

nwalXXXXXXXXXX5869/102 683004495084 931/000000931/000000005



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161 Jefferson St Apt 3B  
Brooklyn, NY 11206-6377



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